

## SUBCOMMITTEE NO. 2

## Agenda

Sheila Kuehl, Chair  
Bob Dutton  
Alan Lowenthal



Monday, March 14, 2005  
3:30 pm  
Room 112

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### Resources—Environmental Protection—Energy

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## Consent Calendar

### 3110 Special Resources Programs

**Background.** The Special Resources Programs include the following three programs:

- **Tahoe Regional Planning Agency (TRPA).** The TRPA was established by a congressionally approved compact between California and Nevada. The TRPA provides planning and enforceable regulations that preserve and enhance the environment and resources of the Lake Tahoe Basin. Funding for the agency is shared between Nevada (one-third) and California (two-thirds) according to the compact that established the agency.
- **Yosemite Foundation Program.** This program funds restoration and preservation projects in Yosemite National Park. Funding for this program is provided from proceeds of personalized motor vehicle license plates sold by the Department of Motor Vehicles.
- **Sea Grant Program.** This program encourages research and education in the fields of marine resources and technology. This state Sea Grant Program provides state assistance to the University of California and University of Southern California that is used to match funds for selected projects under the federal Sea Grant Program.

**Governor's Budget.** The Governor's budget proposes \$4.7 million for three special resources programs. The majority of the funding is from special funds. This is a slight increase from the current year due to proposed salary increases and computer upgrades for the Tahoe Regional Planning Agency.

#### Summary of Expenditures

(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
<b>Type of Expenditure</b>				
Tahoe Regional Planning Agency	\$3,355	\$3,638	\$283	8.4
Yosemite Foundation Program	840	840	0	0.0
Sea Grant Program	200	205	5	2.5
<b>Total</b>	<b>\$4,395</b>	<b>\$4,683</b>	<b>\$288</b>	<b>6.6</b>

#### Funding Source

Special Funds	\$4,271	\$4,559	\$288	6.7
Budget Act Total	4,271	4,559	288	6.7
Harbors and Watercraft Revolving Fund	124	124	0	0.0
<b>Total</b>	<b>\$4,395</b>	<b>\$4,683</b>	<b>\$288</b>	<b>6.6</b>

**Budget Change Proposals.** The administration submitted the following two budget change proposal for the Tahoe Regional Planning Agency:

- \$176,000 from the Environmental License Plate Fund for an 8 percent increase in salaries to keep pace with other state agency salary increases made over the last several years.
- \$107,000 from the Environmental License Plate Fund for updating desktop computers, (hardware and software), central storage, and record digitizing capabilities. The last update to desktops occurred in 1998. Approximately \$55,625 is being sought from the State of Nevada to cover its share of the upgrade.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the three special resources programs as budgeted.

## 3780 Native American Heritage Commission

**Background.** The Native American Heritage Commission (NAHC) preserves and protects California Native American cultures. The commission's powers and duties include identifying and cataloging important geographic sites, helping Native Americans gain access to these sites, protecting burial and sacred sites, and ensuring that remains are treated appropriately. The commission also works to mitigate the negative impacts of development on the state's Native American cultural resources.

**Governor's Budget.** The Governor's budget provides \$537,000 to support the NAHC in the budget year. This is about the same level as estimated for expenditure in the current year.

### Summary of Expenditures

(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
<b>Type of Expenditure</b>				
Native American Heritage	\$541	\$545	\$4	0.7
Unallocated Reduction	0	-8	-8	0.0
<b>Total</b>	<b>\$541</b>	<b>\$537</b>	<b>-\$4</b>	<b>-0.7</b>

### Funding Source

General Fund	\$536	\$532	-\$4	-0.7
Budget Act Total	536	532	-4	-0.7
Reimbursements	5	5	0	0.0
<b>Total</b>	<b>\$541</b>	<b>\$537</b>	<b>-\$4</b>	<b>-0.7</b>

**Budget Change Proposals.** No budget proposals were submitted for the commission.

**Staff Recommendation.** Staff recommends that the Subcommittee approve the commission as budgeted.

## 7300 Agricultural Labor Relations Board

**Background.** The Agricultural Labor Relations Board (ALRB) is responsible for conducting secret ballot elections to determine collective bargaining representation in agriculture and for investigating and resolving unfair labor practice disputes.

**Governor's Budget.** The Governor's budget proposes \$4.9 million to support the ALRB in the budget year. This is about the same level of funding as estimated for expenditure in the current year.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
<b>Type of Expenditure</b>				
Board Administration	\$2,139	\$2,144	\$5	0.2
General Counsel Administration	2,827	2,836	9	0.3
Administration Services	253	255	2	0.8
less distributed administration	-253	-255	-2	0.0
Unallocated Reduction	0	-76	-76	0.0
<b>Total</b>	<b>\$4,966</b>	<b>\$4,904</b>	<b>-\$62</b>	<b>-1.2</b>
<b>Funding Source</b>				
General Fund	\$4,966	\$4,904	-\$62	-1.2
Budget Act Total	4,966	4,904	-62	-1.2
Reimbursements	0	0	0	0.0
<b>Total</b>	<b>\$4,966</b>	<b>\$4,904</b>	<b>-\$62</b>	<b>-1.2</b>

**Budget Change Proposals.** No budget change proposals have been submitted for this board.

**Staff Recommendation.** Staff recommends the Subcommittee approve the board as budgeted.

## 0540 Secretary for Resources

**Background.** The Secretary for Resources heads the Resources Agency. The secretary is responsible for overseeing and coordinating the activities of the departments, commissions, conservancies, and other boards and authorities that make up the Resources Agency.

**Governor's Budget.** The Governor's budget proposes \$58 million to support the Secretary for Resources in the budget year. This is approximately 20 percent less than the estimated level of expenditures in 2004-05. This is primarily due to the reduced level of bond funds available for appropriation. The General Fund does not support the Secretary for Resources.

<b>Summary of Expenditures</b> (dollars in thousands)		2004-05	2005-06	\$ Change	% Change
<b>Type of Expenditure</b>					
Administration		\$72,423	\$58,062	-\$14,361	-19.8
Total		\$72,423	\$58,062	-\$14,361	-19.8
<b>Funding Source</b>					
General Fund		\$0	\$0	\$0	0.0
Special Funds		12,750	3,069	-9,681	-75.9
Bond Funds		58,890	54,288	-4,602	-7.8
<i>Budget Act Total</i>		<i>71,640</i>	<i>57,357</i>	<i>-14,283</i>	<i>-19.9</i>
Federal Trust Fund		269	184	-85	-31.6
Reimbursements		515	521	6	1.2
Total		\$72,424	\$58,062	-\$14,362	-19.8

### 1. River Parkways Program

**Background.** Legislation was enacted as part of the 2004-05 budget trailer bill (SB 1107) that provides the administration with guidelines for awarding the River Parkways grants. This bill also provided \$10 million in Proposition 50 bond funds for River Parkway grants for 2004-05.

This action was consistent with a recommendation by the LAO in its 2003-04 Analysis recommending that the Legislature adopt legislation that defined the River Parkway program.

**Governor's Budget.** The administration proposes to appropriate \$38.35 million in bond funds (\$30.5 million Proposition 50, \$7.85 million Proposition 40) for River Parkway grants for 2005-06. The Proposition 40 grant funds are proposed to be allocated as opportunity grants by the Secretary, which means that these grants will not be allocated through a competitive process. The

remainder of Proposition 50 funds are planned to be allocated through a competitive solicitation process.

The administration plans on releasing draft guidelines by the end of March and will hold public meetings to review these guidelines in April. The administration plans on doing its first solicitation this summer and evaluating proposals in the fall.

**Draft Guidelines Needed for Legislative Oversight.** Since the draft guidelines have not been released, it is impossible to determine whether the administration has followed current law in developing the new River Parkways program. It is also unclear why it has taken the administration over eight months to develop guidelines without public comment.

**Transparent Process for All Grants.** The administration is proposing that \$7.85 million (21 percent) of the grant funds be allocated as opportunity grants. Opportunity grants provide the Secretary with more flexibility in making acquisitions that may become available at short notice. The administration has not provided information about whether they plan on complying with the guidelines set forth in statute for opportunity grant purchases. It is also unclear how the administration plans on communicating its justification for making opportunity acquisitions, which is critical to keeping the process transparent to the public. It is also critical that the competitive grant processes be constructed so that the allocation process is transparent to the public.

**Staff Recommendation.** Delete bond funding proposed for the River Parkways program until the Legislature has received and reviewed the draft guidelines for the River Parkway grant program to ensure they provide for a transparent awards process and are consistent with current law.

## 2. Sierra Nevada Cascade Grant Program

**Background.** Legislation was enacted as part of the 2004-05 budget trailer bill (SB 1107) that provides the administration with guidelines for awarding Sierra Nevada Cascade grants. This bill also provided \$4.15 million in Proposition 50 bond funds for River Parkway grants for 2004-05.

This action was consistent with a recommendation by the LAO in its 2003-04 Analysis that recommended that the Legislature adopt legislation that defined the Sierra Nevada Cascade grant program.

**Governor's Budget.** The administration proposes \$11.65 million Proposition 50 bond funds for Sierra Nevada Cascade grants for 2005-06. The grants are proposed for competitive solicitation.

The administration plans to release draft guidelines this summer and will hold public meetings during the late summer. The administration plans on putting out its first solicitation for grants in the fall of 2005. In evaluating the grant proposals, the administration will require that all proposals within the boundaries of the Sierra Nevada Conservancy have a letter of support from the conservancy. The administration has indicated that the geographic area eligible for grant funds under the Secretary's Sierra Nevada Cascade grant program is larger than the boundaries

of the Sierra Nevada Conservancy. Senate committee analyses of the legislation establishing the Sierra Nevada Conservancy make findings contrary to the administration. However, the differences between the two regions are very small.

**Draft Guidelines Needed for Legislative Oversight.** As with the River Parkways program, draft guidelines have not been released and it is impossible to determine whether the administration has followed current law in developing the new Sierra Nevada Cascade grant program. The administration intends to sequence the Sierra Nevada Cascade grant program on a later timeline in order to get more input from the new Sierra Nevada Conservancy.

**Transparent and Coordinated Process Needed for Grants.** As with the River Parkways program, it is critical that the competitive grant processes proposed are constructed so that the allocation process is transparent to the public. The administration has not provided information on how it plans on making the grant solicitation transparent.

Also, the administration proposal to coordinate with the new Sierra Nevada Conservancy does not address the prioritization of projects to be funded. The Sierra Nevada Conservancy will have a long-term land conservation presence in the region and should have more input into how the bond funds are allocated within its region. The LAO recommends adopting supplemental report language to address the coordination issues between the Resources Agency and the Sierra Nevada Conservancy.

**Staff Recommendation.** Delete bond funding proposed for the Sierra Nevada Cascade grant program in 2005-06 unless the administration can provide draft guidelines consistent with current law and demonstrate that the grants will be allocated through a transparent awards process that is sufficiently coordinated with the new Sierra Nevada Conservancy.

## 3855 Sierra Nevada Conservancy

### 3. Sierra Nevada Conservancy Start Up

**Background.** Legislation was enacted in 2004 (AB 2600) to create a new Sierra Nevada Conservancy to provide a vehicle for increasing and coordinating state and federal investments in the Sierra Nevada region. The region contains the mountains and the foothills of the Sierra Nevada range and certain adjoining areas, including Mono Basin, the Owens Valley and part of the southern Cascade region. The jurisdiction covers all or portions of 22 counties from Shasta and Modoc counties in the north to Kern County in the south. Six geographic sub-regions have been defined within the conservancy boundaries.

The board of directors of the conservancy includes: the Resources Secretary, the Director of Finance, three public members appointed by the Governor, one public member appointed by Senate Rules, one member appointed by the Speaker of the Assembly, and six county supervisors (one from each region). The conservancy is restricted from acquiring fee title to land.

**Governor's Budget.** The administration has proposed \$3.6 million for start-up activities for the Sierra Nevada Conservancy (\$3.4 million ELPF and \$200,000 Reimbursements). The administration indicates that the primary activities proposed for the conservancy in 2005-06 are program guideline development and the review of grant projects to be funded by the Secretary of Resources.

Approximately \$2.6 million is proposed for operating expenses and equipment, including \$960,000 for program guideline development and \$629,000 for communications and data processing. The guideline development funding will be used to employ consultants to provide expert advice regarding existing resource management information, as well as to fund an extensive public workshop process for gaining additional information from each of the six sub-regions. The communications and data processing funding will be used for the development of a website, development of geographic information systems (GIS), and conferencing equipment.

Approximately \$948,000 is proposed for staff costs associated with 20.5 personnel years.

The board of directors of the Sierra Nevada Conservancy is scheduled to meet for the first time in April. Very little has been done to start up the conservancy in the current year aside from naming the board members. The administration has not provided information about how it is funding start up activities in the current year.

**Guideline Development Funding Seems High.** The administration is proposing nearly \$1 million for program guideline development, which does not include staff costs or other costs associated with communications and data processing support. This seems high even though the strategic program planning process set up by the legislation requires meetings and workshops in each sub-region to set up program objectives and priorities in each sub-region. The administration has no information on what specific activities the \$1 million proposed for guideline development will support.

**Who Analyzes the Grant Proposals?** The administration indicates that the review of grant projects will be one of its two major focuses in the budget year. The administration has indicated that it will require a letter of support from the conservancy in order for an applicant to be considered for grant funds from the Sierra Nevada Cascade Grant program. However, the information supporting the budget request for the Sierra Nevada Conservancy asserts that the conservancy would recommend to the Resources Secretary what projects should be funded by the grant program. It is not clear who will be analyzing the grant proposals submitted for the grant program. Information from the administration seems to suggest that grant proposals would be analyzed twice, once at the conservancy and once at the Resources Secretary. This process needs to be clarified to see whether appropriate bond funds should be shifted to the conservancy in order to support evaluation activities related to the grant program at the conservancy.

**Some Start-Up Costs Are One-Time.** The LAO has indicated that approximately \$1.2 million of the \$3.6 million start-up funds support one-time activities that should not be built into the base funding for the conservancy. Specifically, the LAO has identified \$567,000 proposed for guideline development and \$586,000 proposed for equipment purchases that should be



considered one-time costs. The LAO recommends adopting budget bill language to limit the guideline development funding to two years and the equipment funding to one year.

**Staff Recommendation.** Staff recommends holding this issue open until further information is provided by the administration regarding the following:

- Specific cost allocations for tasks related to guideline development.
- Information on how the conservancy and the grant program at the Secretary's office will be coordinated, including specific tasks required by each entity.

## 4. Removal of Hetch Hetchy Dam—Informational Item

**Background.** In November, 2004, Assemblymember Lois Wolk held a policy briefing on the potential for restoration of the Hetch Hetchy Valley. As a result of this briefing, a letter was transmitted to the Secretary of Resources requesting that the administration survey the studies recently completed regarding the feasibility of removing the Hetch Hetchy Dam. In response to this query, the administration agreed to conduct a review of these studies.

**Questions.** The Secretary for Resources should provide information on the following items:

- What is the status of this study?
- When will the final report be completed?
- What resources are being used to fund this activity? If redirected, from what activities?

## 5. Resource Management

**Background.** Over the past several years, five major resources bonds have been approved by the voters. These bonds provided significant resources for land acquisition purposes and the state's land holdings have increased over the past several years. Despite the increase in state park land, habitat, and open space, there have been significant reductions in the funding available to manage these properties. This is a big problem for the Department of Parks and Recreation, the Department of Fish and Game, and some of the regional conservancies (some conservancies do not acquire fee title to land).

**Conservation Easements.** The state has not only purchased fee title to land with the bond funds allocated over the last several years, but has also purchased conservation easements from willing sellers. For example, the recently approved Hearst Ranch acquisition was composed mainly of a conservation easement with the state purchasing only a small portion of the total land that was part of the deal. Conservation easements have also been used exclusively in the Department of Conservation's farmland conservation program, where the state purchases the landowner's rights to develop the property or significantly change the conservation values embodied by the property when the easement is sold.

Conservation easements can reduce the amount of land that the state owns for habitat and open space, which could reduce the ongoing resource management costs to the state. However, this type of arrangement is not feasible for the state parks system where public access is the central focus for land acquisition.

Also there are relatively few statutory guidelines for conservation easements and it is not always clear that the conservation values embodied in the land when the conservation easement is purchased will be sustained in perpetuity. In most cases, there is relatively little state oversight over whether the landowner is managing the land in a manner that is in compliance with the conservation easement.

**Potential Funding Sources.** The state has a considerable ongoing funding gap related to resource management of its existing properties. The General Fund is an appropriate funding source since resource management consists of taking care of the state's public trust resources. The General Fund has historically been the funding source for resource management and, due to the budget reductions, funding has been reduced significantly as compared to other areas of the resources budget. Generally, bond funds cannot be utilized to support ongoing maintenance efforts because these efforts do not meet capital improvement standards. The Environmental License Plate Fund has been used for resource management activities, but this funding source is not adequate to address all of the state's resource management needs. Other special funds have also been used to fund resource management activities, but most are extremely limited in what they can fund based on restrictions on the fund.

**Staff Recommendation.** Staff recommends that the Subcommittee adopt supplemental report language to require the Office of the Secretary for Resources to prepare an options report for increasing funding for the state's resource management activities.

## 6. California Environmental Quality Act Equivalent Programs

**Background.** Recent legislation (SB 1393, Kuehl) required that the Secretary for Resources develop a protocol to evaluate California Environmental Quality Act (CEQA) equivalent certified regulatory programs. These programs are designated by the Secretary for Resources as functionally equivalent to CEQA and are not required to complete the required Environmental Impact Reports under CEQA.

The administration submitted a protocol to the Legislature in July 2004 that included some suggestions to improve the certification process and give the Secretary express authority to de-certify programs that fail to meet the criteria for the certified regulatory programs. However, the administration's report did not evaluate whether the state's current certified regulatory programs are consistent with the new protocol.

**Protocol is First Step.** A protocol for evaluating certified regulatory programs is a first step in evaluating the adequacy of the state's current certified regulatory programs. It is impossible to determine whether the state's current programs are equivalent to CEQA without evaluating each individual program using the newly developed protocol. It is important to periodically evaluate the certified regulatory programs to assure that they are meeting environmental protection objectives that are equivalent to CEQA.

**Staff Recommendation.** Staff recommends that the Subcommittee direct staff, the LAO and the office of the Secretary for Resources to develop trailer bill language that requires the office of the Secretary of Resources to evaluate three certified regulatory programs annually to ensure they are, in fact, CEQA equivalent.

## 7. California Ocean Protection Council

**Background.** Recent legislation (SB 1319, Burton) enacted the California Ocean Protection Act with the goal of creating better coordination among state agencies that oversee protection of coastal and marine waters. The act creates an Ocean Protection Council that is required to report to the Governor and Legislature on changes in law and policy needed to meet goals related to ocean and coastal protection.

**Governor's Budget.** A \$1.2 million proposal has been submitted by the State Coastal Conservancy to fund start-up costs for the Ocean Protection Council. The administration recently indicated that the proposal submitted as part of the Governor's January 10 budget was incorrect. The administration proposes to hold the first meeting of the council on March 21. The meeting will cover information on the administration's ocean action plan implementation, ongoing state stewardship of ocean resources, and specific priorities for action.

**Justification for Funding Inadequate.** Without a justification for the expenditures proposed to support the Ocean Protection Council, it is not possible for the Legislature to evaluate the administration's implementation plans for the council. The administration should provide additional information about how it proposes to expend the proposed \$1.2 million, including what roles individual departments will play in implementation of the council. Information should also be provided regarding how the administration plans on implementing ocean projects, especially if the tidelands oil revenues allocated in the 2004-05 budget are not realized by the state.

**Staff Recommendation.** Staff recommends that the Subcommittee withhold action on the funding for the Ocean Protection Act until a new proposal justifying the proposal has been submitted and evaluated by the Legislature.

## 8. California Coastal Impact Assistance Program

**Governor's Budget.** The Governor's budget proposes to extend the liquidation period for federal grants appropriated in 2002 to complete 30 coastal projects to mitigate outer-continental oil and gas production. Approximately, \$10 million is for state projects and \$5.4 million is for county projects.

**Staff Recommendation.** Staff recommends that the Subcommittee approve extension of the liquidation period so that projects funded by the Coastal Impact Assistance Program can continue.

## 3560 State Lands Commission

**Background.** The State Lands Commission (SLC) is responsible for the management of lands that the state has received from the federal government. These lands total more than four million acres and include tide and submerged lands, swamp and overflow lands, the beds of navigable waterways, and vacant state school lands.

**Governor's Budget.** The Governor's budget proposes \$24 million for SLC in 2005-06, which is about the same level of funding estimated for expenditure in the current year.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
<b>Type of Expenditure</b>				
Mineral Research Management	\$6,112	\$6,819	\$707	11.6
Land Management	\$8,432	8,271	-161	-1.9
Marine Facilities Division	8,475	8,557	82	1.0
Executive and Administration	3,149	3,214	65	2.1
less distributed administration	-3,149	-3,214	-65	0.0
Unallocated Reduction	0	-137	-137	0.0
<b>Total</b>	<b>\$23,019</b>	<b>\$23,510</b>	<b>\$491</b>	<b>2.1</b>
<b>Funding Source</b>				
General Fund	\$9,094	\$8,801	-\$293	-3.2
Special Funds	10,186	10,897	711	7.0
Budget Act Total	19,280	19,698	418	2.2
Land Bank Fund	421	426	5	1.2
Reimbursements	3,318	3,386	68	2.0
<b>Total</b>	<b>\$23,019</b>	<b>\$23,510</b>	<b>\$491</b>	<b>2.1</b>

### 1. Environmental Review of Liquefied Natural Gas and Marine Oil Terminal Applications

**Background.** The commission is currently reviewing applications for construction and operation of three liquefied natural gas (LNG) ports off the coast of Ventura, Santa Barbara, and San Diego counties. The commission expects to receive three additional applications for new marine oil terminals (MOT) in state waters over the next six months. In addition to the LNG applications

and the forthcoming MOT applications, the SLC has 14 pending applications for MOT and other energy activities in state waters.

Liquefied Natural Gas proposals are some of the most complex applications received by the SLC for environmental review. Furthermore, LNG applications are subject to curtailed review requirements outlined in the federal Deepwater Port Act. The federal Deepwater Port Act requires a joint Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) to be completed on LNG applications within 365 days of receiving the application. If the requirements are not met, the U.S. Coast Guard will not consider the project. The joint EIR/EIS must be provided to the Governor by the 311<sup>th</sup> day for acceptance or rejection. If the Governor approves the application, the environmental documents along with a land lease application must be brought before the SLC. Applications for new MOT are not subject to the shortened timeline prescribed by the federal Deepwater Port Act.

**Governor's Budget.** The administration is proposing \$114,000 from General Fund reimbursements to extend the term of one limited-term environmental scientist to support the increased workload of the SLC's environmental review activities. The SLC has three positions (including the requested limited-term position) providing environmental review of applications received by SLC.

**Questions.** The Secretary of Resources and the Executive Officer of the State Lands Commission should answer the following questions:

- How will the administration provide justification that all CEQA requirements are met on LNG applications given the shortened timeline required by the federal Deepwater Port Act?
- Does the SLC have a process for involving public input as it prepares the EIR/EIS documents?
- How does the SLC coordinate with the California Energy Commission and the California Public Utilities Commission regarding the need for facilities being proposed off the coast of California?

**Staff Recommendation.** Staff recommends that the Subcommittee direct the Resources Secretary to provide workload information on the current and projected work required by the state agencies under the Resources Agency in reviewing LNG applications. Information should also be provided regarding the current level of staffing for these activities.

## 2. Tidelands Oil Revenues

**Background.** During the 2004 budget negotiations, legislative staff found that the administration's estimates for tidelands oil revenues were far below what was anticipated due to higher than expected oil prices. The Governor proposed to sweep all of the tidelands oil revenues into the General Fund instead of allocating these funds to the resource priorities set in statute. The Legislature enacted a compromise position that shifted some money to the General Fund, but shifted additional revenues to other resource priorities. The 2004-05 budget allocated tidelands oil revenues in the following order:

- \$500,000 to the Marine Life Protection Act;
- \$165 million to the General Fund;

- \$10 million to ocean projects and \$2.7 million to parks projects in the City of Los Angeles;
- \$6.5 million for salmon and steelhead restoration;
- \$1.5 million for environmental review of stream flow requirements on mid-California coastal streams; and
- \$4 million for fish hatchery operations.

Thus far, tidelands oil revenues that have been received have covered only the \$500,000 for the Marine Life Protection Act and \$126 million to the General Fund. The other allocations have not been made because sufficient revenues have not been received.

One reason adequate revenues have not been received stems from a recent court decision allowing the City of Long Beach to keep some of the tidelands oil revenues for future cleanup and abatement costs of oil production in San Pedro Bay. The state had recently won a court case prohibiting the City of Long Beach from redirecting tidelands oil revenues that would flow to the state to an abatement fund. However, another judge has allowed the city to keep the revenues while further appeals proceed. The City of Long Beach currently owes the state around \$80 million in tidelands oil revenues.

**Governor's Budget.** The Governor's budget assumes that the tidelands oil revenues will eventually be transferred to the respective allocations specified in the 2004-05 budget. However, the SLC estimates that monthly revenues will have to average over \$16 million over the next four months to provide adequate funding for all activities (without resolution of Long Beach dispute). Revenues have exceeded \$16 million in four of the seven months in the current year. (Resolution of the Long Beach dispute in the state's favor would provide revenues in excess of what is needed to cover the 2004-05 budget allocations and would provide additional revenues beyond the \$165 million to the General Fund in the current year.)

The administration proposes to suspend current law in the budget year and transfer all of the tidelands oil revenues to the General Fund.

**Current Year Expenditure of Tidelands Oil Revenues Unlikely.** Thus far, no tidelands oil revenues have been allocated to most of the priorities included in the 2004-05 budget. Furthermore, it is unlikely that the issues related to the City of Long Beach abatement account will be resolved in the current year. However, it is still possible that tidelands oil revenues will be adequate in the balance of the current year to provide sufficient funds to cover all of the priorities in the budget year. Nevertheless, it is nearly certain that funds will not be expended in the current year. The Legislature would need to extend the liquidation period for these funds in order to assure that these funds, if allocated in the current year, are available for expenditure in the budget year and beyond, if appropriate.

**Staff Recommendation.** Staff recommends adopting budget bill language to extend the liquidation period for three years for appropriations of tidelands oil revenues in the 2004-05 budget.

### 3. Ballast Water Management Program

**Background.** The Ballast Water Management Program was revised and extended in legislation enacted in 2003 (AB 433, Nation). A \$500 fee is assessed on vessels entering state waters and generates approximately \$3.2 million annually. This program is intended to regulate the release of ballast water within state waters, thereby reducing the introduction of invasive and non-indigenous aquatic species in the state's marine ecosystems. The introduction of invasive species and other bacteria and pathogens from ballast water can negatively impact the environment and the economy and can also pose a threat to the state's drinking supplies.

This legislation requires the commission to take samples from at least 25 percent of arriving vessels and requires the commission, in conjunction with the Department of Fish and Game and the State Water Resources Control Board, to complete several reports that improve the state's ability to regulate and manage the introduction of marine invasive species.

**Governor's Budget.** The budget proposes expenditure of \$1.9 million from the Marine Invasive Species Control Fund for implementation of the Ballast Water Management Program at the SLC. Approximately, \$400,000 of the \$1.9 million is provided to the Board of Equalization for administrative costs associated with collecting the fee. This leaves approximately \$1.5 million at the commission to manage this program.

**Report Overdue.** A report was due to the Legislature on January 31, 2005 that provides a summary of baseline information regarding the ballast water discharged into the state's waters. The report is also required to include information from the commission's monitoring and inspection program, including recommendations to improve the effectiveness of the program, as well as a summary of research completed and in progress on the release of invasive species by vessels. The Committee has not received this report.

**Commission Proposes to Reduce Fee.** The commission is proposing to reduce the fee charged to vessels from \$500 per voyage to \$400 per voyage. The commission indicates that they have had higher than expected compliance with paying the fee and this has allowed them to reduce the fee. However, the Legislature has not received the report that would allow evaluation oversight of the commission's activities relative to implementation of AB 433.

**Staff Recommendation.** Staff recommends that the Subcommittee withhold action on the funding for the Ballast Water Management Program until the overdue report has been submitted and analyzed to ensure that the commission is complying with legislative direction and to appropriately evaluate whether a fee reduction is warranted.

### 4. Oil Spill Prevention and Response Program

**Background.** The SLC implements the Oil Spill Prevention and Response program in conjunction with the Department of Fish and Game. The SLC is provided funding to prevent oil spills in the state's marine waters. This program is funded by a surcharge on every barrel of crude oil or petroleum products sold in the state. Funds are deposited in the Oil Spill Prevention Administration Fund (OSPAF).

**Governor's Budget.** The Governor's budget proposes to expend \$32 million from the OSPAF in the budget year. Approximately, \$9 million is proposed for expenditure by SLC and \$21.5 million by the Department of Fish and Game. The administration is proposing two augmentations to SLC's program for the budget year.

- \$100,000 to monitor oil and gas seeps and develop containment and recovery programs to reduce air emissions and offshore pollution.
- \$499,000 and 4 positions to enable SLC to do comprehensive audits of oil and gas facilities every 3-5 years.

**Recent Report Evaluating Program Submitted.** The administration completed a report in January of 2005 that reviews fiscal and program activities of the Oil Spill Prevention Response program. This report makes recommendations to improve the efficiency and effectiveness of the state's program. This report was required by 2002 legislation (SB 849, Torlakson).

**Budget Proposal Should Be Evaluated in Context of Report Findings.** It does not appear that the budget proposals by the administration were evaluated in the context of the recommendations found in the report. The administration should re-evaluate SLC's budget proposals regarding the Oil Spill Prevention Response program to determine whether they are consistent with improving the effectiveness and efficiency of the program.

**Staff Recommendation.** Staff recommends that the Subcommittee withhold action on the funding for the commission's Oil Spill Prevention and Response program until the administration has reviewed its budget proposals in the context of the January 2005 report findings on the program. This should include a review of both SLC and Department of Fish and Game's activities.



## 3640 Wildlife Conservation Board

**Background.** The Wildlife Conservation Board (WCB) acquires property in order to protect and preserve wildlife and provide fishing, hunting, and recreational access facilities. The WCB is an independent board in the Department of Fish and Game and is composed of the Director of the Department of Fish and Game, the Director of the Department of Finance, and the Chairman of the Fish and Game Commission. In addition, three members of the Senate and three members of the Assembly serve in an advisory capacity to the board.

**Governor's Budget.** The Governor's budget proposes \$29 million for the WCB in 2005-06, which represents more than a 95 percent reduction from the current year. This reduction is due to a significant reduction in the bond funds available for appropriation. General Fund support for this board is \$200,000, which about the same level of funding as in the current year.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
<b>Type of Expenditure</b>				
State Operations	\$6,045	\$6,122	\$77	1.3
Capital Outlay	742,417	23,096	-719,321	-96.9
Unallocated Reduction	0	-3	-3	0.0
<b>Total</b>	<b>\$748,462</b>	<b>\$29,215</b>	<b>-\$719,247</b>	<b>-96.1</b>
<b>Funding Source</b>				
General Fund	\$200	\$197	-\$3	-1.5
Special Funds	35,000	6,220	-28,780	-82.2
Bond Funds	698,117	21,798	-676,319	-96.9
Budget Act Total	733,317	28,215	-705,102	-96.2
Reimbursements	10,144	1,000	-9,144	-90.1
Oak Woodlands Conservation Fund	5,000	0	-5,000	-100.0
<b>Total</b>	<b>\$748,461</b>	<b>\$29,215</b>	<b>-\$719,246</b>	<b>-96.1</b>

### 1. Natural Heritage Preservation Tax Credit Program— Informational Item

**Background.** The Natural Heritage Preservation Tax Credit Program was enacted by legislation in 2000 (SB 1647, O'Connell). The program allows a 55 percent credit on the appraised fair market value of the donated property. Under the program, up to \$100 million in tax credits is

authorized for donations of qualified land and water. Due to reduced levels of General Fund available for this program, it was suspended in 2002. However, legislation enacted in 2004 (AB 2722, Laird) amended the program and removed the suspension to allow the lost General Fund revenues resulting from the tax credit to be reimbursed using certain bond funds. To date, \$33.2 million in tax credits have been awarded. Approximately, \$15 million in credits are encumbered to facilitate the Hearst Ranch acquisition. This results in a balance remaining of \$52 million.

**Update.** The board adopted revised guidelines to implement the new tax credit program envisioned by AB 2722 at its January board meeting. The board plans on holding a solicitation under the new program during the spring of 2005.

## 2. Continuously Appropriated Bond Funds—Informational Item

**Background.** Recent bond funds approved by the voters provided WCB with allocations that are continuously appropriated. Therefore, after an initial allocation, they are not part of the board's annual budget appropriations. The following table provides an update on the funds that have been allocated to date and the balance remaining for new acquisitions.

<b>Proposition 50 Bond Funds</b>				
(dollars in thousands)	Appropriated	Allocated	Balance	% Remaining
Statewide - Integrated Watersheds	\$140,000	\$134,697	\$5,303	3.8
Five Southern Counties	250,000	126,681	123,319	49.3
L.A./Ventura Counties	300,000	289,112	10,888	3.6
Bay Area	200,000	159,524	40,476	20.2
Colorado River/Salton Sea	50,000	35,675	14,325	28.6
<b>Total</b>	<b>\$940,000</b>	<b>\$745,689</b>	<b>\$194,311</b>	<b>20.7</b>
<b>Proposition 40 Bond Funds</b>				
Statewide	\$300,000	\$128,608	\$171,392	57.1
Rangeland, Grazing, and Grasslands	19,200	3,793	15,407	80.2
Oak Woodlands	4,800	1,568	3,232	67.3
<b>Total</b>	<b>\$324,000</b>	<b>\$133,969</b>	<b>\$190,031</b>	<b>58.7</b>
<b>Proposition 12 Bond Funds</b>				
Various Projects	\$265,500	\$251,288	\$14,212	5.4
<b>Total</b>	<b>\$265,500</b>	<b>\$251,288</b>	<b>\$14,212</b>	<b>5.4</b>
<b>Grand Total</b>	<b>\$1,529,500</b>	<b>\$1,130,946</b>	<b>\$398,554</b>	<b>26.1</b>

Approximately \$400 million or 26 percent of the total bond funds appropriated are available for expenditure. (Of the remaining Proposition 12 funds, \$4.4 million is dedicated to the Federal Forest Legacy Match Program and \$4.75 million is dedicated to Salton Sea Restoration.)

### 3. Habitat Conservation Fund

**Background.** The Habitat Conservation Fund was created by the Wildlife Protection Act of 1990 which requires that \$30 million be transferred to this fund annually. The funds may be used for the purpose of acquiring, restoring, and enhancing habitat necessary to protect wildlife and plant populations.

**Governor's Budget.** The administration proposes that WCB expend \$21 million in Proposition 50 bond funds to satisfy part of its commitment to HCF. The remaining HCF expenditures are being made by the Department of Parks and Recreation (\$4.5 million), the State Coastal Conservancy (\$4 million), and the California Tahoe Conservancy (\$500,000). The full \$30 million allocation is being satisfied by \$7.6 million from the Cigarette Tax and \$1.3 million from the Renewable Resource Investment Fund.

**Funding Future Allocations to HCF.** The act that created the HCF requires that a General Fund transfer be made to the account unless other sources of funding are available. No General Funds have been allocated since 2002-03. Some bond funds are available to make additional transfers to satisfy this commitment over the next few years. However, the drawing down of available bond funds will shift the funding responsibility for this fund to the General Fund or other funding source in the future unless new bond funds are available.

**Staff Recommendation.** Staff recommends the Subcommittee approve WCB's allocation to the HCF as budgeted.

### 4. Public Access Program

**Background.** The WCB is involved in acquiring, conserving, developing, improving, and providing access to the state's natural resources to accommodate access for those who want to enjoy California's resources. Upgrading facilities to make them compliant with the Americans with Disability Act is also a component of the board's public access program.

**Governor's Budget.** The Governor's budget proposes \$500,000 from the Wildlife Restoration Fund. Revenues to this fund are primarily from private donations and gifts. The administration indicates that it has a backlog of public access projects that totals \$17.4 million.

**Staff Recommendation.** Staff recommends the Subcommittee approve WCB's allocation to its public access program as budgeted.

## 8570 California Department of Food and Agriculture

**Background.** The California Department of Food and Agriculture (CDFA) provides services to both producers and consumers of California's agricultural products in the areas of agricultural protection, agricultural marketing, and support to local fairs. The purpose of the agricultural protection program is to prevent the introduction and establishment of serious plant and animal pests and diseases. The agricultural marketing program promotes California's agricultural products and protects consumers and producers through the enforcement of measurements, standards, and fair pricing practices. Finally, the department provides financial and administrative assistance to county and district fairs.

**Governor's Budget.** The Governor's budget proposes \$318 million to support CDFA in 2005-06. This is approximately \$1.6 million more than the level of expenditures estimated in the current year. This increase is primarily due to new programs to address emerging diseases and laboratory upgrades.

<b>Summary of Expenditures</b>				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
<b>Type of Expenditure</b>				
Agricultural Plant and Animal Health, Pest Prevention, and Food Safety Services	\$148,953	\$155,250	\$6,297	4.2
Marketing and Commodity and Agricultural Services	69,730	71,025	1,295	1.9
Assistance to Fair and County Agricultural Activities	76,606	76,521	-85	-0.1
Capital Outlay	19,652	14,802	-4,850	-24.7
Administration	13,180	14,422	1,242	9.4
<i>less distributed administration</i>	<i>-12,077</i>	<i>-13,237</i>	<i>-1,160</i>	<i>0.0</i>
Unallocated Reduction	0	-1,159	-1,159	0.0
Total	\$316,044	\$317,624	\$1,580	0.5
<b>Funding Source</b>				
General Fund	\$95,977	\$100,062	\$4,085	4.3
Agriculture Fund	112,545	115,734	3,189	2.8
Other Special Funds	48,046	45,321	-2,725	-5.7
Bond Funds	1,000	1,178	178	17.8
<i>Budget Act Total</i>	<i>257,568</i>	<i>262,295</i>	<i>4,727</i>	<i>1.8</i>
Federal Trust Fund	35,295	33,648	-1,647	-4.7
Public Building Construction Fund	12,824	11,203	-1,621	-12.6
Harbors and Watercraft Revolving Fund	1,197	1,241	44	3.7
Reimbursements	9,159	9,237	78	0.9
Total	\$316,043	\$317,624	\$1,581	0.5

## 1. Mediterranean Fruit Fly Preventative Release Program

**Background.** The Mediterranean Fruit Fly (Medfly) Preventative Release program involves raising sterile Medflies and releasing them within high risk areas of the state (currently a 2,500 square mile area in the L.A. basin). These sterile Medflies mate with any wild fertile female flies that have been introduced into the area and curb the reproduction process.

This program protects over 200 different kinds of fruits and vegetables that could be negatively impacted by a Medfly infestation. Since 1980 the state has spent approximately \$150 million from the General Fund to fight the Medfly, including spraying pesticides prior to the development of the sterile Medfly program. The sterile Medfly program has resulted in reducing annual outbreaks from an average of seven to just three per year. The program has proven to be significantly more cost effective and environmentally friendly than spraying pesticides to eradicate infestation of the pest.

The Medflies found in the state are mainly from imported fruits and vegetables and/or human travel from other countries. The department indicates that a DNA tracking system has found that a majority of the Medflies found in the state originate from Central and South America. Medflies are not established in California.

**Governor's Budget.** The administration proposes to establish the Medfly Preventative Release program as a permanent ongoing program with an \$8.1 million General Fund allocation. These state funds are matched with the same level of funding from the federal government. The administration does not propose any industry assessment to support this program.

**Funding Mix History.** Over the past several years there have been ongoing discussions about requiring the industry to pay for a portion of the Medfly program since it directly benefits growers of agricultural products. This would be similar to the program funding for the Pierce's Disease program that targets the Glassy Winged Sharpshooter. In this program grape growers (wine and table) pay an assessment to help fund a portion of the Pierce's Disease program along with funding from the state and federal governments. The administration has suggested that a similar assessment would be difficult for the Medfly program because of the number of commodities benefiting from the program.

**Organization of Agriculture Industry Groups Decentralized.** At present, the CDFA oversees dozens of commodity specific boards that pay assessments for a variety of inspection, research, and marketing programs. Some of the research efforts and pest exclusion efforts of individual boards could provide a wide array of benefits to other state commodities. Currently, assessments on one or two industries may be benefiting other commodities which are making no funding contribution. The decentralization of the agricultural industry boards' activities is likely to result in overlap and duplication of effort in some areas. It seems that current industry assessment funds could be spent more effectively and efficiently if some activities were better coordinated by CDFA for the entire agricultural industry. One example may be the Medfly program.

**Many CDFA Activities Lay Foundation for Healthy California Industry.** Many of CDFA's activities are important to providing a foundation for a healthy California agricultural industry. These activities directly benefit this industry. Therefore, the development of a broad assessment

on the state's agricultural industry in lieu of some of the individual commodity fees may be an appropriate funding mechanism for selected activities at CDFA. However, given the wide variety in assessments and activities carried out by different industry boards it is difficult to assess common activities that would be more effectively managed with an industry wide assessment.

**Staff Recommendation.** Staff recommends the Subcommittee adopt supplemental report language that requires CDFA to do a survey of all of the activities and funding of the various commodity specific boards under its jurisdiction. This type of report would allow the state to identify similar activities being funded by industry assessments that may be more effectively carried out by centralizing efforts at the department.

## 2. Position Management

**Background.** The LAO identified in its 2004-05 Analysis that CDFA's management of its budgeted positions significantly deviated from standard state administrative procedures. About half of CDFA's positions had been created at the discretion of the department and without approval of the Legislature or the Department of Finance. As part of the 2004-05 budget process, trailer bill language was enacted that required the department to conform to standard administrative procedures regarding creating and managing its positions. In addition, the department was required to report to the Legislature by January 10, 2005 on these positions, including providing a description of the workload associated with the positions.

**Governor's Budget.** The department has established all of its positions through the normal state administrative procedures. However, it has not provided a report of the workload associated with the positions it recently established.

**Workload Information Key to Evaluating Positions.** Since about one half of the department's positions were created outside standard state administrative procedures, the department should provide some basic information on the workload being supported by these positions. This information would be similar to information provided when positions are proposed through normal budget change proposals. The LAO recommends withholding action on the Agriculture Fund budget of \$116 million until a completed report is submitted.

**Staff Recommendation.** Staff recommends that the Subcommittee withhold action on the department's Agriculture Fund budget until a completed report has been submitted and evaluated by the Legislature.

## 3. Emerging Threats to Food Supply

**Governor's Budget.** The administration has proposed \$2.7 million General Fund and 17 positions to support activities to address potential terrorist attacks on the state's food supply, as well as emerging viral diseases that affect both animals and humans. The proposal assumes that this is the first step in the development of a larger program and has indicated that full implementation in 2006-07 could cost an additional \$15.9 million from the General Fund.

**Request Fails to Reflect Statewide Strategy.** The request submitted by the department fails to provide information on how its efforts will fit into statewide efforts related to terrorism. The Office of Homeland Security (OHS) and the Department of Health Services have significant programs related to terrorism response and protection, as well as emerging viral diseases. These two departments are also responsible for allocating annual federal homeland security grants. Conversations with the department have indicated that meetings have occurred with the other agencies, but a specific plan that provides for express coordination among agencies has not been submitted.

**Alternative Funding Sources Available.** The LAO has identified that federal homeland security grants are an appropriate funding source for some of the activities being proposed by the department. In addition, the state's Antiterrorism Fund, which is funded from proceeds from the sale of California memorial license plates would also be used for antiterrorism activities. Approximately \$1.8 million is available from this fund for non-OHS activities in the budget year. The department has indicated that they are pursuing federal grant opportunities with other state agencies, but are concerned that there may be limits on how these funds can be spent. They also indicate that these funds cannot be utilized to hire staff.

**Staff Recommendation.** Staff recommends that the Subcommittee direct the Department of Finance to coordinate its proposals related to terrorism protection and emerging viral diseases and resubmit its proposals. The proposal should maximize non-General Fund resources to the maximum extent possible.